

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JUN GAO,

Plaintiff,

v.

MICHAEL CHERTOFF, Secretary of the
Department of Homeland Security, et al.,

Defendants.

No. C-06-7879 MMC

**ORDER DENYING MOTION TO DISMISS;
VACATING HEARING**

(Docket No. 5)

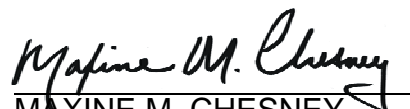
Before the Court is defendants' motion to dismiss the instant action for lack of subject matter jurisdiction and failure to state a claim, pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure. Plaintiff Jun Gao ("Gao") has filed opposition to the motion; defendants have filed a reply. Having considered the papers filed in support of and in opposition to the motion, the Court finds the matter appropriate for resolution without oral argument, see Civil L.R. 7-1(b), hereby VACATES the April 27, 2007 hearing, and rules as follows:

For the reasons set forth in plaintiff's opposition, the motion to dismiss is hereby DENIED.

This order terminates Docket No. 5.

IT IS SO ORDERED.

Dated: April 23, 2007


MAXINE M. CHESNEY
United States District Judge